

OLC RECORD COPY

OLC 78-2265/1

19 June 1978

OMB

MEMORANDUM FOR: Office of General Counsel
Office of Medical Services
Office of Security

FROM:
Legislation Staff/OLC

SUBJECT: HEW Draft Bill Entitled "Privacy of Medical Information Act"

1. The Office of Management and Budget has requested CIA's views on HEW's proposed legislation entitled "Privacy of Medical Information Act" (copy attached). In order that this office may prepare a complete response to the bill, we request that you review the bill in its entirety in an effort to determine what effect, if any, the bill might have on this Agency if enacted into law. OMB has given us a response deadline of not later than 23 June 1978. It is therefore imperative that we have your responses not later than close of business on 20 June.

2. In summary, the bill is intended to provide, to individuals, significant privacy safeguards for many sensitive medical records. Although this type of protection is largely in existence today, the bill attempts to pull together into one piece of legislation what the authors consider to be important safeguards.

3. Included in the draft bill, and of possible concern to this Agency, are: a right of access by individuals to their own medical records; the prohibition of disclosure of records without an individual's consent (with certain specified exceptions); and requirements concerning the specificity of individuals' authorizations to disclose medical information. Remedies for violations of the Act's provisions are contained within the language of the proposed bill.

4. In examining the possible ramifications of this bill, we pose the following questions for your consideration:

a. As the bill exempts "a federal entity" from the definition of "medical care facilities" to which the bill speaks, is the Agency therefore exempt as a Federal entity? ("Federal entity" is nowhere defined within the bill.)

b. Notwithstanding subparagraph a. above, are current Office of Medical Services (OMS) procedures and policies in compliance with the bill? If not, how do these differ and if it became necessary to change the same (should, for example, the bill be amended to include Federal entities), would this place an undue burden on OMS?

c. From the standpoint of the Office of Security, does the bill present any problems relating to our current investigatory procedures as they relate to the possible examination of medical records (mainly at non-Federal entities) in the employee selection/background investigation process or otherwise?

5. The foregoing are merely the most obvious questions. We encourage you to examine the bill in its entirety and request comments on any portions of the bill which, in your opinions, raise problems or possible problems for this Agency. We both appreciate your assistance and apologize for the short response time which has been imposed upon us by OMB.

Attachment



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